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JUN 22 2009

OFFICE OF PETITIONS

In re Application of  
Hugh HERR  
Application No. 10/613,499  
Filed: July 03, 2003  
Attorney Docket No. H-18

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 04, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-compliant notice mailed, December 26, 2007, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 29, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (2) above.

The petition in the above-identified application was not accompanied by payment of the required fee. A review of the Office records shows that the credit card provided with the petition was

declined for payment. No consideration on the merits can be given that petition until the required fee is received.


Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to the undersigned at (571) 272-4231.

  
Michelle R. Eason  
Paralegal Specialist  
Office of Petitions